



VI. ATTORNEY DISCIPLINE:

**A. Kentucky Bar Association v. William Perry McCall
2013-SC-000792-KB April 17, 2014**

Opinion of the Court. All sitting; all concur. The KBA moved the Court to impose reciprocal discipline on William Perry McCall under Supreme Court Rules (SCR) 3.435. In October 2013, the Indiana Supreme Court entered an order approving a Statement of Circumstances and Conditional Agreement for Discipline between McCall and the Indiana Supreme Court Disciplinary Commission. In the Agreement, McCall admitted that he violated Indiana Professional Conduct Rule 8.4(b) by receiving two Class A misdemeanor convictions. The Indiana rule violated by McCall is substantially similar to the Kentucky Rules of Professional Conduct, SCR 3.130-8.4(b) (committing a criminal act that reflects adversely on a lawyer's honesty, trustworthiness or fitness).

The Indiana Supreme Court suspended McCall from the practice of law for 90 days but stayed the suspension subject to completion of 24 months of probation with the Indiana Judges and Lawyers Assistance Program (JLAP). The court further imposed several conditions on McCall's probation, including a prohibition against the use of any alcohol or mind-altering substances and no violations of the JLAP agreement.

In February 2014, the Supreme Court of Kentucky *sua sponte* entered an order requiring McCall to show cause why it should not impose reciprocal discipline consistent with that imposed by the Supreme Court of Indiana. McCall did not respond to the order. The Court acknowledged that, under SCR 3.3435(4), it had authority to issue reciprocal discipline. However, because the disciplinary action in Indiana had been stayed pending the satisfactory completion of conditions imposed by the Supreme Court of Indiana, the Court held that the matter must be deferred pending McCall's satisfactory completion of those conditions.

**B. Kentucky Bar Association v. Travis Olen Myles, Jr.
2014-SC-00004-KB April 17, 2014**

Opinion of the Court. All sitting; all concur. Myles represented a client in a civil claim against an insurance company. After the client experienced difficulty communicating with Myles, she asked that he return her client file so she could retain new counsel. Myles failed to respond to the request and the client filed a

complaint with the Office of Bar Counsel (the OBC). The OBV wrote to Myles requesting confirmation of his return of the client's file. Myles responded that he sent the file via certified mail. However, the file was never returned to the client. The Inquiry Commission issued a private admonition for Myles' violation of SCR 3.130-1.16(d) and SCR 3.130-8.1(b). The admonition was conditioned upon Myles's compliance with the Inquiry Commission's order to provide Ms. Lewis with her file within twenty days. Myles eventually acknowledge receipt of the Inquiry Commission's order and stated he would return the file to the client the following week. A month later, the client still had not received the file.

The Inquiry Commission issued a complaint based on Myles's failure to comply with the conditions set forth in the private admonition. The two-count charged alleged that Myles violated SCR 3.130-3.4(c) by knowingly disobeying an obligation to a tribunal, and SCR 3.130-8.1(b) by failing to respond to a lawful demand for information from a disciplinary authority. Attempts to serve the complaint by certified mail failed and Myles was eventually served by the Jefferson County Sheriff. Myles did not respond to the complaint and the case was submitted to the Board of Governors. By a unanimous vote, the Board found Myles's guilty of violating SCR 3.130-3.4(c) and 3.130-8.1(b). Taking into account Myles's previous discipline, which included a 181-day probated suspension that was subsequently revoked and a private reprimand, the Board recommended a suspension for a period 61-days, consecutive to any other discipline, and payment of costs. Upon review of the Board's recommendation, the Court agreed with both the finding of guilty and the proposed discipline.

**C. Kentucky Bar Association v. Daniel Edward Pridemore
2014-SC-000042-KB April 17, 2014**

Opinion of the Court. All sitting; all concur. Pridemore failed to file an appeal on behalf of his clients, despite taking a fee for the purpose of filing the appeal and assuring his clients on multiple occasions that the appeal had been filed. The clients filed a Bar Complaint and the Inquiry Commission issued a four-count charge against Pridemore. Thereafter, Pridemore communicated to the Office of Bar Counsel that he was receiving mentorship through KYLAP. Despite several phone conferences and emails with the Office of Bar Counsel, Pridemore never filed an answer to either the Bar Complaint or the Inquiry Commission's charge.

The Board of Governors unanimously voted to find Pridemore guilty of all four counts and, by an eleven-member majority, voted to suspend Pridemore from the practice of law for thirty days, probated for two years on the condition that he: 1) submit to evaluation by KYLAP; 2) attend the Ethics and Professional Enhancement Program; and 3) pay the assessed costs of the disciplinary proceedings. The Supreme Court adopted the recommendation of the Board and ordered that Pridemore be sanctioned accordingly.

D. Kentucky Bar Association v. Clyde F. Johnson
2014-SC-000043-KB April 17, 2014

Opinion of the Court. Minton, C.J.; Abramson, Cunningham, Keller, Noble and Venters, JJ., concur. Scott, J., not sitting. After receiving a fee from his clients for enforcement of a tax lien, Johnson failed to take any action and failed to communicate with or respond to requests for information from his clients for over two years. The clients eventually filed a bar complaint against Johnson. Johnson responded by admitting the allegations of the complaint and outlining remedial measure to insure a similar problem would not occur again. Johnson also returned the fee to the clients.

Thereafter, the Inquiry Commission issued a charge against Johnson with three counts. Count 1 alleged Johnson violated SCR 3.130-1.3(c) by failing to diligently pursue or file his clients' case. Count II alleged Johnson violated SCR 3.130-1.4(a) by not communicating with his clients about their case. And Count III alleged Johnson violated SCR 3.130-1.16(d) by abandoning his clients' case and not refunding the unearned fee until the bar complaint was filed against him.

Johnson filed an answer and admitted the veracity of every statement in the charge. He accepted responsibility for his actions and stated his willingness to accept appropriate discipline. Shortly thereafter, Johnson disappeared. Bar Counsel filed a motion to submit briefs to the Board under SCR 3.210(2). Emergency Temporary Curators were appointed by the Floyd Circuit Court to file a response on Johnson's behalf in opposition to Bar Counsel's motion. Bar Counsel replied that the Curators did not represent Johnson in the disciplinary matter and that Johnson had already admitted the allegations against him.

The Board found that Johnson was properly served with the Inquiry Commissions charge; filed a response admitting the truth of the allegations; and was prepared to accept his discipline. Accordingly, the Board unanimously recommended that Johnson be found guilty on all three counts. Considering Johnson's previous history of discipline, the Board recommended that Johnson be suspended from the practice of law for 30 days, required to attend EPEP, and referred to KYLAP. After considering the facts and Johnson's disciplinary history, the Court adopted the recommendation of the Board and sanctioned Johnson accordingly.

E. William David Rye v. Kentucky Bar Association
2014-SC-000056-KB April 17, 2014

Opinion of the Court. All sitting. All concur. Rye agreed to represent a juvenile in a criminal matter. Shortly thereafter, Rye began representing a co-defendant in the same case, allegedly without the informed consent of either party and without informing them of the potential conflict. After Rye began reviewing taped police interviews, he realized an actual conflict existed and moved to withdraw as counsel for both defendants. The court granted the motion and the juvenile defendant filed a bar complaint against Rye. Rye filed a response, indicating that he notified the juvenile of his representation of the co-defendant and discussed the

conflicts associated with dual representation. The Office of Bar Counsel then sent Rye a letter with the following question: “Did you have the informed consent, of both parties, in writing, following your meeting with them to explain the potential conflict of interest?” Rye did not respond to the question. The OBC made two subsequent attempts to obtain a response, both of which went unanswered.

The Inquiry Commission issued a formal charge containing four counts: Count I, SCR 3.130-1.4(a)(1)(failure to promptly inform client of a circumstance requiring the client’s informed consent); Count II, SCR 3.130-1.4(b) (failure to keep client reasonably informed); Count III, SCR 3.130-1.7(a) (representing clients with a concurrent conflict of interest); and Count IV, SCR 3.130-8.1(b) (failure to respond to a request for information from disciplinary authority). Rye declined to answer the charge.

The Board of Governors reviewed the charge against Rye and voted unanimously that he was not guilty of Counts I and II. By a vote of 8 to 11, the Board also found Rye not guilty of Count III. The Board unanimously found Rye guilty of Count IV and ultimately recommended that he be suspended from the practice of law for 30 days, probated for two years on the condition that he not receive any additional disciplinary charges and complete the Ethics and Professionalism Enhancement Program. The Board’s recommendation was based, in part, on Rye’s previous discipline of a private admonition and a public reprimand.

Upon review, the Court adopted the Board’s findings and recommendations under SCR 3.370(10) and sanctioned Rye accordingly.

**F. James P.S. Snyder v. Kentucky Bar Association
2014-SC-000093-KB April 17, 2014**

Opinion of the Court. All sitting. All concur. Snyder represented a client in a bankruptcy matter and moved the bankruptcy court to approve his retainer fee. Two years later, an Assistant United States Trustee deposed Snyder. During the course of that deposition, Snyder admitted that he deposited fees received in several bankruptcy cases in either his personal or operating checking accounts and failed to obtain court approval for the fees. Snyder also admitted that he had not maintained a trust account for the previous five years. Snyder eventually entered into an agreed order in the US Bankruptcy Court in the Eastern District to return any unearned fees and disgorge fees totaling \$19,400.00. Snyder was also required to withdraw from any pending bankruptcy cases in which meetings of the creditors had not been held or confirmed plans obtained.

The Inquiry Commission issued a formal charge containing three counts: Count I, SCR 3.130-1.15(a) (failure to hold client’s property in a separate account); Count II, SCR 3.130-1.15(e) (failure to deposit advanced fees in a trust account); and Count III, SCR 3.130-3.4(c) (knowingly disobeying an obligation under rules of a tribunal). Snyder admitted to violating all three Rules of Professional Conduct and entered into a negotiated sanction with the Office of Bar Counsel for a public reprimand and monitoring by KYLAP.

Upon review of the facts and based on previous cases imposing similar discipline for analogous conduct, the Court found that the consensual discipline proposed by Snyder and agreed to by the Office of Bar counsel was appropriate. Therefore, Snyder's motion for a public reprimand was granted.

G. Clifford Branham v. Kentucky Bar Association
[2014-SC-000111-KB](#) April 17, 2014

Opinion of the Court. All sitting; all concur. Branham was suspended from the practice of law for failing to pay a late fee associated with his 2009-10 Bar dues and had not been restored to membership. In the meantime, the Inquiry Commission charged Branham with three counts of misconduct. Counts I and II stemmed from criminal proceedings against Branham in Fayette Circuit Court, in which he pled guilty to four counts of theft by failure to make required disposition of property over \$10,000. He was sentenced to a total of eight years in prison and was ordered to pay restitution. Count III charged Branham with violating SCR 3.130-8.1(b) based on his failure to respond to the Inquiry Commission's request for information.

Branham admitted that his actions were "serious and egregious" violations of the Rules of Professional Conduct and requested leave to resign from the KBA under terms of permanent disbarment under SCR 3.480(3). The KBA did not object to Branham's motion. The Court agreed that Branham's motion to withdraw his membership was appropriate and ordered him permanently disbarred from the practice of law.